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In re Application of
KIM et al.
Serial No.: 10/584,893
PCT No.: PCT/KR03/02867
Int. Filing Date: 29 December 2003
Priority Date: None
Attorney's Docket No.: K-0822
For: BURNER ASSEMBLY FOR GAS BURNERS OF
RADIANT HEATING TYPE

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DECISION ON PETITION
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UNDER 37 CFR 1.181
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This decision is in response to applicant's "Petition for Withdrawal of Holding of Abandonment of Application under 37 CFR 1.181(a)" filed 23 July 2008 in the United States Patent and Trademark Office (USPTO) in the above-captioned application.

BACKGROUND

On 28 June 2006, applicant filed the U.S. national stage application for international application PCT/US04/14965, under 35 U.S.C. 371. These papers were assigned U.S. serial number 10/584,893.

On 30 March 2007, a Notification of Missing Requirements, was mailed to applicant indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), was required.

On 03 July 2008, a Notification of Abandonment was mailed to applicant indicating that applicant had failed to respond to the Notification of Missing Requirements within the time period set therein.

On 23 July 2008, in a response to the Notification of Abandonment, applicant submitted the instant petition accompanied by a copy of the declaration and the itemized postcard receipt with USPTO date-stamp 30 August 2007, indicating receipt of, *inter alia*, a declaration executed by the inventors.

DISCUSSION

Applicant requests acceptance of the declaration submitted on 23 July 2008 in lieu of the original declaration, mailed on 30 August 2007.

As stated in section 503 of the Manual of Patent Examining Procedure (Rev. 7, July 2008)(MPEP):

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in

the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

Applicant states that the executed declaration was originally filed on 30 August 2007 and provided a copy of the USPTO date-stamped postcard receipt indicating such. The postcard identifies the application number, applicant name and docket number. Among the items listed on the postcard receipt are "Declaration". The postcard is date-stamped by the USPTO "OIPE AUG 30 2007".

A review of the USPTO date-stamped, itemized postcard receipt indicates that the declaration was deposited with the USPTO on 30 August 2007. Applicant has now presented a copy of the papers originally filed on 30 August 2007 and provided a copy of the date-stamped postcard receipt. Thus, the evidence is sufficient to establish that the declaration was received in the USPTO on 30 August 2007 and that the postcard receipt indicating a date of 30 August 2007 was mailed by the USPTO. In addition, it is noted that the \$130 surcharge for filing the declaration after the thirty month period and the fee for a three month extension of time was paid on 30 August 2007. Accordingly, the Office accepts the copy of the papers as a replacement for the missing original documents with a deposit date of 30 August 2007.

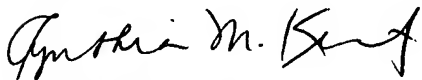
CONCLUSION

Applicant's petition under 37 CFR 1.181 to accept a copy of the declaration originally filed on 30 August 2007 is **GRANTED**.

The 03 July 2008 Notification of Abandonment is hereby **VACATED**.

The copy of the declaration originally submitted on 30 August 2007 and resubmitted on 23 July 2008 is acceptable for the reasons set forth above and meets the requirements of 37 CFR 1.497(a) and (b).

The application will be forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing.



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